

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed December 19, 2003. Claims 1, 3, 4, 22, 27-30, 34, 41, and 42 have been amended. Claims 2, 6-21, 33, and 35-40 have been canceled. Upon entry of this response, claims 1, 3-5, 22-32, 34, and 41-43 remain pending in the present application.

In the Office Action, objections have been raised with regard to Figures 1 and 2. The abstract stands objected to for improper length. Pending claims 1, 3-5, 27-32, 34, and 41-43 have been preliminary rejected as anticipated under 35 U.S.C. § 102. Pending claims 22-26 have been preliminarily rejected for obviousness under 35 U.S.C. § 103. The Applicant traverses all of the objections and rejections of the Office Action. Reconsideration and allowance of the subject application and presently pending claims 1, 3-5, 22-32, 34, and 41-43 is respectfully requested.

I. Response to Drawing Objection

Figures 1 and 2 have been amended to include the legend --Prior Art-- as suggested by the Examiner. The modified forms of constructions shown in Figure 2 have been separated into Figures 2A and 2B as suggested by the Examiner. The Applicant requests favorable reconsideration and withdrawal of the objection to the drawings.

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II. Response to Specification Objection

The abstract has been amended to be clearer and more concise. The Applicant requests favorable reconsideration and withdrawal of the objection to the abstract.

III. Response to Claim Rejections Based On Anticipation

In the Office Action, claims 1, 3-5, 27-32, 34, and 41-43 have been preliminary rejected as anticipated under 35 U.S.C. § 102. Specifically, claims 1 and 3-5 have been rejected as being anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 5,724,667 to Furono (hereafter, "Furono") and claims 27-32, 34, and 41-43 have been rejected as being anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,082,656 to Thornton (hereafter, "Thornton").

As the examiner is aware, "Anticipation can only be established by a single prior art reference which discloses each and every element of the claimed invention." *Structural Rubber Products Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984). Further, "Absence from a cited reference of any element of a claim of a patent negates anticipation of that claim by the reference." *Kloster Speed Steel AB v. Crucible, Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986), *on rehearing*, 231 USPQ 160 (Fed. Cir. 1986). Thus, even if a single element found in the Applicant's claim is not identically and exactly disclosed in prior art relied upon by the Examiner, the Examiner's rejection of the claims under 35 USC § 102 is improper.

The Applicant respectfully submits that the references Furono and Thornton fail to disclose all elements of the rejected claims for at least the reasons that follow.

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A. Claim 1

Amended independent claim 1 reads:

A cable retractor assembly, comprising:
an enclosure for housing a rotatable reel, the enclosure having a first side and an opposing second side,
a biasing member coupled to the reel and the enclosure for urging the reel to rotate in a predetermined direction,
a first plurality of terminals disposed on the first side of the enclosure, and a second plurality of terminals disposed on the second side of the enclosure, the first plurality of terminals electrically coupled to the second plurality of terminals, wherein the *first plurality of terminals is coupleable to a power supply external to an electronic device and the second plurality of terminals is coupleable to the electronic device.*

(Emphasis Added)

The Applicant has amended claim 1 to include the additional elements of canceled dependent claim 2 and to more clearly identify the Applicant's claimed invention. The Applicant respectfully submits that Furono fails to disclose at least the above-emphasized element of claim 1. Furono discloses a first plurality of terminals coupled to a battery 23. However, Furono does not disclose the first plurality of terminals coupled to a power supply external to the electronic device.

As a result of at least the above mentioned, the Applicant respectfully submits that claim 1 is allowable and allowance is respectfully requested.

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B. Claims 3-5

The Applicant respectfully submits that since claims 3-5 depend on independent claim 1, claims 3-5 contain all limitations of independent claim 1. Since independent claim 1 should be allowed, as argued above, pending dependent claims 3-5 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

1. Claim 3

In addition to the above mentioned, Furono does not disclose the second plurality of terminals being coupleable to a wireless phone. The Examiner states, “[the claimed element] reads on the description of portable telephone shown in Fig. 8, the circuit board attaches all terminals within housing cabinet, hence cable retractor is included and attached to wireless phone.” (Last paragraph, page 3 of the Office Action.) However, when read in view of the other claimed elements of claim 1 and dependent claim 3, the Examiner’s interpretation is not possible in view of the other claimed elements of claim 1 and dependent claim 3. The Applicant’s claim 1 reads, “a first plurality of terminals disposed on the first side of the enclosure, and a second plurality of terminals disposed on the second side of the enclosure.” If the enclosure is read onto the wireless phone, it cannot be read onto being disposed on the second side of the enclosure.

Therefore, the Applicant respectfully submits that claim 3 should be allowed.

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2. Claim 4

In addition to the above mentioned, Furono does not disclose the second plurality of terminals being coupleable to a cellular phone. The Examiner states, "[the claimed element] reads on the description of portable telephone shown in Fig. 8, the circuit board attaches all terminals within housing cabinet, hence cable retractor is included and attached to wireless phone." (Last paragraph, page 3 of the Office Action). However, when read in view of the other claimed elements of claim 1 and dependent claims 3 and 4, the Examiner's interpretation is not possible. Applicant claim 1 reads, "a first plurality of terminals disposed on the first side of the enclosure, and a second plurality of terminals disposed on the second side of the enclosure." If the enclosure is read onto the cellular phone it cannot be read onto being disposed on the second side of the enclosure.

Therefore, the Applicant respectfully submits that claim 4 should be allowed.

C. Claim 27

Amended independent claim 27 reads:

A cable retractor assembly coupleable to a portable communications device, comprising:
a communications circuit for sending and receiving wireless communications signals,
a cable retractor assembly for retracting a coupled cable, the cable comprising a first end and a second end, the first end coupled to the communications circuit and the second end comprising a speaker, and
an enclosure for housing the communications circuit and the retractor wherein *the enclosure is detachably coupleable to the communications device.*

(Emphasis Added)

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The Applicant has amended claim 27 to more clearly identify the Applicant's claimed invention. The Applicant respectfully submits that Thornton fails to disclose at least the above-emphasized element of claim 27. The Examiner reads the enclosure onto the cradle of Thornton. However, the cradle of Thornton does not house a communications circuit and a retractor. Therefore the cradle disclosed in Thornton does not disclose the enclosure as housing a communications circuit and a retractor and detachably coupled to a communications device.

Even if one were to read the cradle on the housing of the Applicant's claimed invention, which the Applicant does not concede, the cradle and housing of Thornton are still coupled by the headset cord 44. Therefore the cradle of Thornton is not detachably coupled to the housing of Thornton. The Applicant's claim 27 reads, "the enclosure is detachably coupleable to a communications device." Thornton does not disclose an enclosure detachably coupled to a communications device.

As a result of at least the above mentioned, the Applicant respectfully submits that claim 27 is allowable and allowance is respectfully requested.

D. Claims 28-29

The Applicant respectfully submits that since claims 28-29 depend on independent claim 27, claims 28-29 contain all limitations of independent claim 27. Since independent claim 27 should be allowed, as argued above, pending dependent claims 28-29 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

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1. **Claim 29**

In addition to the above mentioned, Thornton does not disclose an enclosure coupleable to a portable communications device with an enclosure for housing a speaker and a microphone.

Therefore, the Applicant respectfully submits that claim 29 should be allowed.

E. **Claim 30**

Amended independent claim 30 reads:

A cable retraction assembly, comprising:

a reel rotatable about an axis for the winding and unwinding of a cable, the cable having at least two electrical conductors,

a biasing member coupled to the reel for urging the reel to rotate in a first direction;

a force applicator for resisting winding and unwinding of the cable; and

an enclosure for housing the reel, the biasing member, and the force applicator wherein the enclosure is detachably coupleable to an electronic device.

(Emphasis Added)

The Applicant has amended claim 30 to include the additional elements of canceled dependent claim 33 and to more clearly identify the Applicant's claimed invention. The Applicant respectfully submits that Thornton fails to disclose at least the above-emphasized element of claim 30. The Examiner reads the enclosure onto the cradle of Thornton. However, the cradle of Thornton does not house a reel, a biasing member, or a force applicator. Therefore the cradle disclosed in Thornton

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does not disclose the enclosure as housing a reel, a biasing member, or a force applicator and detachably coupled to an electronic device.

Even if one were to read the cradle on the housing of the Applicant's claimed invention, which the Applicant does not concede, the cradle and housing of Thornton are still coupled by the headset cord 44. Therefore the cradle of Thornton is not detachably coupled to the housing of Thornton. The Applicant's claim 30 reads, "the enclosure is detachably coupleable to an electronic device." Thornton does not disclose an enclosure detachably coupled to an electronic device.

As a result of at least the above mentioned, the Applicant respectfully submits that claim 30 is allowable and allowance is respectfully requested.

F. Claims 31,32, and 34

The Applicant respectfully submits that since claims 31,32 and 34 depend on independent claim 30, claims 31, 32 and 34 contain all limitations of independent claim 30. Since independent claim 30 should be allowed, as argued above, pending dependent claims 31, 32 and 34 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

G. Claim 41

Amended independent claim 41 reads:

A cable retractor, comprising;
*an enclosure detachably coupleable to a portable
electronic device,*
a rotatable reel,
a biasing member secured to the enclosure and the reel
to urge the reel to rotate in a predetermined direction,

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a length of cable having a first end and a second end,
the first end coupled to the reel and the second end having a
speaker coupled thereto,

a plurality of terminals secured to the enclosure, the
terminals electrically coupled to the first end of the cable and
electrically coupleable to the portable electronic device.

(Emphasis Added)

The Applicant has amended claim 41 to more clearly identify the Applicant's claimed invention. The Applicant respectfully submits that Thornton fails to disclose at least the above-emphasized element of claim 41. The Applicant assumes the Examiner is reading the enclosure onto the support structure 32 of Thornton. However, the support structure 32 of Thornton is not detachably coupled to a portable electronic device. The support structure 32 of Thornton is within housing 20 and is not removable from housing 20. The Applicant's claim 41 has an enclosure that is detachably coupleable to a portable electronic device. Therefore the support structure 32 disclosed in Thornton does not disclose the Applicant's claimed enclosure.

As a result of at least the above mentioned, the Applicant respectfully submits that claim 41 is allowable and allowance is respectfully requested.

H. Claims 42-43

The Applicant respectfully submits that since claims 42-43 depend on independent claim 41, claims 42-43 contain all limitations of independent claim 41. Since independent claim 41 should be allowed, as argued above, pending dependent

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claims 42-43 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

IV. Response To Claim Rejections Based On Obviousness

In the Office Action, pending claims 22-26 were preliminarily rejected for obviousness under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,724,667 to Furono, (hereinafter "Furono") in view of U.S. Patent No. 6,587,674 to Isberg et al. (hereinafter "Isberg"). It is well established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., In re Dow Chemical, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988); In re Keller, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

A. Claim 22

Independent claim 22 reads:

A cable retractor assembly coupleable to a communications device, comprising:

an enclosure for housing a rotatable reel *wherein the enclosure is detachably coupleable to the communications device*,

a biasing member coupled to the reel and the enclosure for urging the reel to rotate in a predetermined direction, and

an actuator coupled to the enclosure to signal the communications device to pick up an incoming call.

(Emphasis Added)

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The Applicant respectfully submits that Furono in view of Isberg fails to disclose, teach, or suggest at least the above-emphasized element of claim 22. The main body of Furono is not detachably coupleable to a communications device. Furono does not disclose, teach, or suggest detachably coupling a communication device to the main body. Isberg does not cure this deficiency. The Applicant claims an enclosure that is detachably coupleable to a communications device, which is not disclosed, taught, or suggested by either Furono or Isberg, either individually or in combination.

As a result of at least the above mentioned, the Applicant respectfully submits that claim 22 is allowable and allowance is respectfully requested.

B. Claims 23-26

The Applicant respectfully submits that since claims 23-26 depend on independent claim 22, claims 23-26 contain all limitations of independent claim 22. Since independent claim 22 should be allowed, as argued above, pending dependent claims 23-26 should be allowed as a matter of law for at least this reason. In re Fine, 5 U.S.P.Q. 2d 1596, 1608 (Fed. Cir. 1988).

1. Claim 25

In addition to the above mentioned, neither Furono nor Isberg disclose, teach, or suggest a terminal for coupling the signal to the coupleable communication device as claimed in claim 25.

Therefore, the Applicant respectfully submits that claim 25 should be allowed.

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V. Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

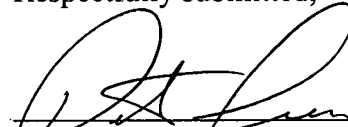
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CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, the Applicant respectfully submits that all objections and rejections have been traversed, rendered moot and/or accommodated, and that presently pending claims 1, 3-5, 22-32, 34, and 41-43 are in condition for allowance. Favorable reconsideration and allowance of the present application and the presently pending claims are hereby courteously requested. If in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (603) 668-1400.

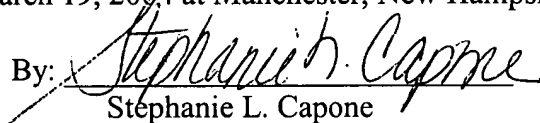
Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on March 19, 2004 at Manchester, New Hampshire.

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